

**TOWN OF DAVIE
REGULAR MEETING
JANUARY 3, 2007**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present at the meeting were Mayor Truex, Vice-Mayor Crowley, Councilmembers Caletka, Paul and Starkey. Also present were Town Administrator Shimun, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

3. OPEN PUBLIC MEETING

Dan Pignato, 6920 SW 6 Court, reminded everyone that March 13th was primary day, and urged everyone to vote. He stated his support for Vice-Mayor Crowley for re-election. Mr. Pignato was also glad that the firefighters' contract was nearing approval.

Jeff Inglander, 12421 SW 6 Court, thanked Council for discussing the mobile home park issue at the previous meeting. Mayor Truex informed Mr. Inglander that they would discuss this item this evening under the Town Attorney's report.

Marlon Luis, 13251 SW 16 Court, announced that he was running for the Town Council District 4 seat.

Henry Whidden, 472 SW 215 Terrace, announced that he and others were forming a political action committee regarding the mobile home park issue aimed at modifying State Statute 723.083. He advised that a strategy meeting would be held at his residence on January 6th. Mayor Truex and Councilmember Starkey stated that they would attend, and Councilmember Starkey asked that this meeting be publicly noticed.

Michael Davenport said he had heard rumors of replacing the Town's firefighters with Broward County firefighters. He was opposed to this, and felt Davie's firefighters were competent, and had capable leadership.

John Ladue, 2961 SW 111 Terrace, resented Councilmember Starkey's remarks at the previous meeting indicating that Mr. Ladue's fence issue had taken up enough of Council's time.

Antoine Fourcand, 4850 SW 63 Terrace, Vice President of Emerald Isles West Condo Association, was concerned that 63rd Terrace had been closed, and Emerald Isles had lost the street's use. Vice-Mayor Crowley wanted to meet with the developer and condo association to address this issue and agreed to set this up.

David Lister, 13920 SW 33 Court, announced that John Pisula was a candidate for the District 4 Town Council seat.

John Pisula, 2933 SW 136 Avenue, advised that he was running for the Town Council District 4 seat.

Michelle Luis, spoke in support of her father, Marlon, for the Town Council District 4 seat.

Lloyd Phillips, 14220 SW 29 Court, read excerpts from previous meetings at which he had spoken, starting in 1997, regarding his Code enforcement complaints against his neighbor. He said it had been ten years, and the Town had never taken any action. He provided transcript copies and produced a tape of his neighbor involved in what Mr. Phillips claimed was criminal activity. Mayor Truex urged Mr. Phillips to turn the tape over to law enforcement. Councilmember Caletka referred to a report Council had received describing Code violations at Mr. Phillips' neighbor's property. Development Services Director Mark Kutney confirmed that staff had prepared a report regarding the Code violations. He said Code Compliance Office Danny Stallone had felt that there were Code violations on Mr. Phillips' property as well as his neighbor's. Mr. Kutney agreed to look into this issue and return with a recommendation. Police Chief John George agreed to send a detective to retrieve the tape from Mr. Phillips.

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Michael Krum, 3411 SW 9 Court, said the canal behind his business property had been full of debris and overgrowth since Hurricane Wilma. Director of Housing and Community Development Shirley Taylor-Prakelt said this had been a “huge nuisance” for years, and they had decided to fill the canal. They were now in the process of obtaining funding, and the project was scheduled to begin October 1, 2007. Vice-Mayor Crowley said that the Water Control District must still approve the project and promised “there’ll be somebody out there first thing in the morning” to clean up the debris.

Karen Stenzel-Nowicki, 5480 SW 55 Avenue, took a moment to remember Marie Kaplan, who had recently passed away. Regarding the mobile home park issue, Ms. Stenzel-Nowicki distributed flyers she had been handed advertising the sale of mobile homes. She felt that in light of their current discussions, this was “an abomination” and felt this was an attempt at “taking advantage of the most vulnerable in our community.” Ms. Stenzel-Nowicki reported that many of the abandoned mobile homes in the Stirling Road Mobile Home Park had burned on December 30th. The following evening, her neighborhood was “again blasted out of the community by bass noise and music emanating from the Seminole Hard Rock Hotel” which continued until 3:00 a.m. She said she had begged Council for help with the Seminole problems for seven years and Council had a responsibility to do something to solve these problems.

Mayor Truex advised that staff had requested that item 4.10 be tabled to January 17, 2007.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex stated that staff had requested that item 6.2 be tabled to January 17, 2007.

Councilmember Paul made a motion, seconded by Mayor Truex, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex said that staff had recommended item 4.15 be withdrawn. Heidi Davis, representative of Point West Center, the applicant, agreed to withdraw the item.

4. APPROVAL OF CONSENT AGENDA

Minutes

- 4.1. October 18, 2006 (Regular Meeting) (tabled from December 20, 2006)
- 4.2. November 1, 2007 (Regular Meeting)

Resolutions

- 4.3. **DELEGATION REQUEST - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE AND REMOVE THE 6 FOOT WIDE UTILITY EASEMENT ALONG THE SOUTH ON THE PLAT KNOWN AS “PLESS-WEBB PLAT”; AND PROVIDING AN EFFECTIVE DATE. (DG 7-2-03, Innovative Concept Croup, 6415 SW 41 Street) (tabled from November 15, 2006)**
R-2007-1
- 4.4. **DUE DILIGENCE PROCEDURES - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE INITIATION OF DUE DILIGENCE PROCEDURES FOR MULTIPLE PROPERTIES FOR THEIR POSSIBLE ACQUISITION THROUGH THE 2006 OPEN SPACE BOND. (THIS ITEM HAS BEEN RENUMBERED TO ITEM 6.4 AS A PUBLIC HEARING IS REQUIRED)**
R-2007-10

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- 4.5. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE
R-2007-2 BID AWARDED BY THE CITY OF TAMARAC FOR QUICKLIME FOR WATER TREATMENT, SOUTHEAST FLORIDA COOPERATIVE PURCHASING GROUP BID #06-33B, TO CHEMICAL LIME COMPANY OF ALABAMA, INC. (\$266,000)
- 4.6. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AWARDED THE
R-2007-3 BID FOR SUPPLY AND INSTALLATION OF SECURITY FENCING AND PARKING LOT IMPROVEMENTS FOR THE DAVIE POLICE DEPARTMENT TO TROPIC FENCE. (\$171,028)
- 4.7. **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2007-4 SELECTING THE FIRM OF SUNGUARD OSSI PUBLIC SAFETY SOLUTIONS TO PROVIDE POLICE DEPARTMENT APPLICATION SOFTWARE AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH PRODUCTS AND SERVICES.
- 4.8. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2007-5 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE SCHOOL BOARD OF BROWARD COUNTY AND THE TOWN OF DAVIE TO PROVIDE A SCHOOL RESOURCE OFFICER PROGRAM FOR WESTERN HIGH SCHOOL, INDIAN RIDGE MIDDLE SCHOOL AND SEVEN ELEMENTARY SCHOOLS IN THE TOWN OF DAVIE. (reimbursement of \$84,000)
- 4.9. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE TO ENTER INTO
R-2007-6 N AGREEMENT WITH THE HOLLYWOOD DOG CLUB, INC. FOR THE RENTAL OF THE BERGERON RODEO GROUNDS FOR WEEKLY DOG CLASSES (\$4,250)
- 4.10. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA
AUTHORIZING THE MAYOR TO EXECUTE A LEASE AMENDMENT TO AN EXISTING LEASE AGREEMENT BETWEEN THE TOWN OF DAVIE AND AMERICAN TOWER CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED 3600 S. FLAMINGO ROAD; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.11. **OPPOSITION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2007-7 EXPRESSING ADAMANT OPPOSITION TO MMM OR ANY OTHER HIGH SCHOOL BEING LOCATED ON SHOTGUN ROAD IN THE TOWN OF DAVIE.
- 4.12. **PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A
R-2007-8 PLAT KNOWN AS THE "TROTTERS CHASE" AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 1-4-06, Trotters Chase, 5820 Griffin Road)
Planning and Zoning Board recommended approval subject to the planning report

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- 4.13. **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT KNOWN AS THE “LORSON PLAT” AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR’S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 4-1-06, Lorson Plat, 5355 SW 76 Avenue)**
Planning and Zoning Board recommended approval
- R-2007-9 4.14. **PLAT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A PLAT KNOWN AS THE “NEW DAWN DAVIE” AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE THE APPROVAL BY AFFIXING THE MAYOR’S SIGNATURE AND THE TOWN SEAL TO SAID PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 6-2-06, New Dawn Davie, 5850 SW 76 Avenue)**
Planning and Zoning Board recommended approval subject to the planning report

Temporary Use Permits

- 4.15. TU 11-2-06, Point West Center, 4050 Weston Road (outdoor storage of vehicles)
- 4.16. TU 11-3-06, St. Bernadette Church, 7450 Stirling Road (carnival)

Quasi-Judicial Consent Agenda

- 4.17. SP 3-4-05, Innovative Concept Group-Pless Webb, 6415 SW 41 Street (B-2) (tabled from November 15, 2006, 2006) *Site Plan Committee recommended approval based on the planning report and the following comments: 1) on plans drawing A-1, the corner columns feature show Hardy board on the tower, however, on the rendering it shows all brick; therefore, the plans should be changed to match the rendering; 2) there is no signage approval at this hearing; 3) relocate the dumpster enclosure six-feet to the north; 4) increase the lighting wattage to 1.5 foot-candles at the front entrance; 5) create a band made of brick in the upper portion of the tower; 6) change color swatch #6270 to a lighter tone in the red family; 6) in relocating the eight-inch caliber Live Oak trees to the western property line – they need to be moved just one time and make every effort to insure their survivability; 7) work with staff to redesign the parking lot in order to accommodate the existing 18-inch caliber Live Oak’s preservation; 8) round off the curbing at the parallel parking space; 9) provide shielding from the lighting at the entrance for the residences across the street; and 10) on the north side of the building, the element that projects on the north face, instead of it being a flat roof, have a metal sloped roof in a hip configuration just over that portion that extends outward on the north face*

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- 4.18. SP 12-4-05, Lorson Professional Campus, 5355 SW 76 Avenue (CC) *Site Plan Committee recommended approval subject to the planning report and the following: 1) that the road improvements along 76th Avenue for the length of the site have been agreed upon with the Engineering Department; 2) that the sidewalk and equestrian trail on the eastern side of the property be continued and extend north 330-feet within the existing right-of-way and with the approval from Florida Power and Light; 3) that the photometric at the entrance and in the parking areas be increased to a minimum of 1.5-candle foot; 4) that the two Royal Palm trees in front of the building be increased to 12-foot of grey wood; 5) that the trees located on the north property line must meet the FP&L requirements and be compatible with their code so it may be necessary to make some revisions in the tree selection; and 6) that the roof color be less orange than shown on the reproduction sample and be more compatible with the rendering elevations*
- 4.19. SPM 2-2-06, Calvary Free Will Baptist Church, 8530 Stirling Road (CF) *Site Plan Committee recommended approval subject to the planning report and the following: that the property owners would provide a letter stating that the sanctuary building and fellowship hall would not be used simultaneously (to ensure adequate parking on the site); that the air conditioning units be screened either by raising the parapet or lowering the roof; modify the curb at the first parking space directly in front as you enter the site; and show the kiosk on the site plan*
- 4.20. SP 6-8-06, Paradise Promenade/Commerce Bank, SW 58th Avenue and Stirling Road (B-2) *Site Plan Committee recommended approval based on the planning report and the following items: 1) that the petitioner would make their best efforts to do the off-site landscaping listed in the report; 2) change the parking in order to allow access to the front doors with an access aisle from the driveway aisle to the front doors as well as a sidewalk to the drive aisle on the west side connecting up to the drive aisle, and two sidewalks in front of the east and west parking areas adjacent to the building; 3) make certain that the a/c units on the roofs are screened; 4) look at the photometric plan and try to average three to five-foot candles overall; 5) increase the turning drive radius on the north side of the drive-up canopies to allow for a fire truck to clear the turning radius; and 6) move the access walkway to Stirling Road to align with the new access aisles to the front door*

Councilmember Paul pulled item 4.12 from the Consent Agenda. Councilmember Starkey pulled items 4.1 and 4.11. Vice-Mayor Crowley pulled item 4.14. Councilmember Caletka pulled items 4.2, 4.8, and 4.18. Mayor Truex pulled item 4.13. Mr. Kiar pulled item 4.9.

Mayor Truex announced that item 4.4 had been changed to item 6.4.

Vice-Mayor Crowley made a motion, seconded by Mayor Truex, to approve the Consent Agenda minus items 4.1, 4.2, 4.8, 4.9, 4.11, 4.12, 4.13, 4.14, and 4.18. In a voice vote, all voted in favor. (Motion carried 5-0)

5. DISCUSSION OF CONSENT AGENDA ITEMS

4.1 Councilmember Starkey wanted a copy of the recording to confirm the statement in paragraph 4 on page 6 of the minutes when Councilmember Caletka asked Mr. Mele if he would be willing to make a \$1,000 donation to the Police Athletic League.

Councilmember Starkey made a motion, seconded by Councilmember Paul, to table this item [January 17, 2007]. In a voice vote, all voted in favor. (Motion carried 5-0)

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4.2 Councilmember Caletka requested that Councilmember Starkey's comments in the minutes be verbatim.

Councilmember Caletka made a motion, seconded by Vice-Mayor Crowley, to table this item to the next meeting [January 17, 2007]. In a voice vote, all voted in favor. (Motion carried 5-0)

4.8 Councilmember Caletka announced he would recuse himself because he worked at Western High School.

Vice-Mayor Crowley made a motion, seconded by Councilmember Paul, to approve.

Councilmember Starkey asked for a legal opinion on Councilmember Caletka's recusal. Mayor Truex advised Council that if one of them chose to recuse him or herself from a vote, he or she did so "at your own peril." Mr. Kiar reminded Council of the general rule that "if it inures to your personal benefit or certain other people that you're affiliated with, then it's appropriate to abstain." He agreed to provide a more specific opinion.

Human Resources Director Mark Alan assured Mayor Truex that staff screened School Resource Officers the same way Police Officers were screened.

[No vote was taken.]

4.9 Mr. Kiar noted a typographical error and stated that the rental was for a total of "50 Tuesdays."

Councilmember Paul made a motion, seconded by Vice-Mayor Crowley to approve, with the correction that the rental was for a total of 50 Tuesdays. In a voice vote, all voted in favor. (Motion carried 5-0)

4.11 Councilmember Caletka stated he would recuse himself from this item because he was a school employee and his personal attorney had advised him to recuse himself.

Councilmember Starkey noted changes she wanted made to the resolution: Edit the first whereas to: "...on Shotgun Road and Orange Drive." In the second whereas, remove "the School Board has still not closed on this property." Councilmember Paul felt this was a relevant statement and did not want to remove it. Vice-Mayor Crowley had no objection to leaving this in, provided it was accurate. In the third paragraph, Councilmember Starkey suggested editing "The School Board chose to deny that location *partly* due to inadequate..." She also suggested editing "...the two-lane city corridor which has been taken *off* the Broward County traffic ways at the *Davie Town Council's* request." Councilmember Starkey recommended omitting the last whereas because "anything else that goes to that corner could be held against us in the future because of the dangerous curve." Councilmember Paul objected and Mayor Truex suggested changing the language from "dangerous road conditions" to "potentially dangerous road conditions." Councilmember Starkey suggested removing "for teenaged drivers" from the last whereas.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to accept the amendments. In a voice vote, with Councilmember Caletka abstaining, all voted in favor. (Motion carried 4-0)

4.12 Councilmember Paul had serious concerns and asked the applicant to go back to the drawing board. Councilmember Caletka advised that several residents wished to speak on this item.

Mayor Truex asked if anyone wished to speak on this item.

Mark Frieden 4761 SW 57 Avenue and president of the Country Homes Homeowners Association, said residents of Country Estates were concerned about the traffic that would result from the apartments above the retail space. They were also concerned about an increase in crime and "transient

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activity.” Mr. Frieden remarked that 58th Avenue could not handle existing traffic, and was caving into an adjacent canal.

Jonathan Davidson, 4741 SW 57 Terrace, said this development would be in his backyard and he and his neighbors were concerned about the location of the high-density apartments at the north end of the development, resulting in an increase in traffic in the surrounding neighborhoods. Mr. Davidson also opposed the allocation of flex units in this development and believed that flex units were appropriate on the State Road 7 corridor, not in a residential Zone 3. Mr. Davidson objected to the use of SW 57 Avenue as the development’s entrance because it was insufficient to accommodate the traffic.

Doris Monier, 5305 SW 48 Street, felt 58 Street could not even handle the existing traffic. She felt the street was too narrow and she was also worried that allowing this would set a bad precedent.

Miriam Grossman, 4710 SW 57 Avenue, thought the developer should stop seeking variances and felt this negatively affected the quality of life of nearby residents. She was concerned about the traffic as well.

Dennis Mele, representing the applicant, said they had been discussing these issues at the neighborhood meetings, but tonight’s agenda item did not involve these issues. Tonight, Council was only considering the boundary plat. He drew Council’s attention to the restrictive note for the plat specifying the allowed uses based on the current zoning. Mr. Mele explained that the use of 58 or 61 Street would be addressed in the site plan. He assured Council that the development was still subject to all other approval processes. Mr. Mele admitted they were applying for rezoning and flex unit allocation, but reiterated that this was not before them this evening.

Mr. Kutney confirmed for Mayor Truex that the plat approval would not include allowing access on Wilson Road or 61 Avenue.

Councilmember Paul did not want to move forward with the plat because of traffic concerns. Mr. Mele and Mr. Kiar agreed that approval of the plat would not grant the applicant any more rights regarding the site plan.

Mr. Mele hoped to return for site plan approval in April or May and said they would continue meeting with neighbors until then. Frank Hermidia, president of Amonti Development Group, promised there was “no trickery here” and concurred they would continue meeting with the neighbors. He informed Vice-Mayor Crowley that they were working to create workforce-housing solutions.

Linda Strutt, representing the applicant, informed Councilmember Caletka that the plat would expire January 19th. Mr. Mele confirmed that restrictions would be passed to any purchaser of the property.

Councilmember Caletka made a motion, seconded by Vice-Mayor Crowley, to approve. In a voice vote, with Councilmember Paul dissenting, all voted in favor. (Motion carried 4-1)

4.13 and 4.18 Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Kiar noted that no one representing the applicant was present.

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to table these items to the next meeting. In a voice vote, with Mayor Truex dissenting and Councilmember Paul out of the room, all voted in favor. (Motion carried 3-1)

4.14 Vice-Mayor Crowley said that the staff report did not match the plans. Jay Evans, representing the applicant, explained that the plat was named “New Dawn Davie” and the site plan was called “Universal Colonnade at University.” He explained the access points to Mayor Truex, and agreed that the access to 76th Avenue could be limited to emergency and maintenance use only. Mr. Evans confirmed that public meetings had been conducted. Mr. Kiar confirmed that approval of the plat would include no commitment regarding the site plan.

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Mayor Truex was concerned with the 76th Avenue scenic corridor. Mr. Evans suggested gating access points to allow maintenance and emergency use only. Mr. Evans agreed with Mayor Truex that approval of the plat would not grant them any rights regarding access onto 76th Avenue.

Vice-Mayor Crowley made a motion, seconded by Councilmember Caletka, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

6. PUBLIC HEARING

Ordinances - Second and Final Reading

- 2007-1 6.1. **PENSION PLAN AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE RETIREMENT PLAN AND TRUST FOR THE MANAGEMENT AND GENERAL EMPLOYEES OF THE TOWN OF DAVIE TO ADMIT AS MEMBERS OF THE PLAN GENERAL EMPLOYEES REPRESENTED BY THE FRATERNAL ORDER OF POLICE; PROVIDING FOR PUBLICATION; PROVIDING FOR REPEAL OF CONFLICTING SECTION IN PRIOR ORDINANCES; PROVIDING AN EFFECTIVE DATE. (tabled from December 20, 2006) **{Approved on First Reading on December 6, 2006. The vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - absent; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Starkey made a motion, seconded by Vice-Mayor Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex -yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.2. **CODE AMENDMENT** - AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF DAVIE, FLORIDA, BY AMENDING SECTION 12-32.304 – PERMITTED, RESTRICTED AND PROHIBITED USES OF THE GRIFFIN CORRIDOR DISTRICT BY AMENDING THE PERMITTED USES IN THE GRIFFIN COMMERCE ZONE 4 DISTRICT TO ALLOW RESIDENTIAL USES, PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE. (ZB(TXT) 12-1-05, The Spear Group/Griffin Landmark, LLC, generally located east of the Turnpike on the north side of Griffin Road) *Planning and Zoning Board recommended approval* **{Approved on First Reading on December 6, 2006. The vote was as follows: Mayor Truex - yes; Vice-Mayor Crowley - absent; Councilmember Caletka - no; Councilmember Paul - yes; Councilmember Starkey - yes}**

This item was tabled earlier in the meeting.

Quasi Judicial Item

- 6.3. **VARIANCE** - V 9-1-06, Fuentes and Geralds/Fuentes and Sarmiento, 5501 SW 38 Street (R-5) (to reduce the minimum front yard setback from 25 feet to 10 feet) *Planning and Zoning Board denied the motion to approve*

Mr. Kiar read the rules of evidence and swore in the witnesses. Deputy Planning and Zoning Manager, Nolan summarized the planning report. Ms. Nolan explained to Councilmember Paul that the property had site restrictions and history behind it. Ms. Nolan informed Councilmember Caletka that the old Code would have allowed a 15-foot setback. The current Code allowed 25 feet, and the applicant was requesting 10 feet, so this request exceeded even the old Code.

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The project architect explained the physical limitations of the property. The applicant, Mr. Fuentes, confirmed for Mayor Truex that this would not become a multi-family dwelling.

Councilmember Caletka advised that he would not approve this because neighbors had not been able to obtain similar variances. Councilmember Paul felt each application must be addressed on its own. Councilmember Caletka objected because this request exceeded the old Code.

Councilmember Starkey was concerned that this would allow the size of the home to almost double, dwarfing nearby homes. She asked staff's opinion regarding whether the request was disproportionate to the rest of the neighborhood. Ms. Nolan advised that there were other homes of this size already in the neighborhood.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, Mr. Kiar closed the public hearing.

Council disclosed communications they had regarding this item.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve. Mayor Truex - no; Vice-Mayor Crowley - no; Councilmember Caletka - no; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion failed 2-3)

Councilmember Caletka made a motion, seconded by Vice-Mayor Crowley, to deny. Mayor Truex - yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - no; Councilmember Starkey - no. (Motion passed 3-2)

Resolution

6.4. **DUE DILIGENCE PROCEDURES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE INITIATION OF DUE DILIGENCE PROCEDURES FOR MULTIPLE PROPERTIES FOR THEIR POSSIBLE ACQUISITION THROUGH THE 2006 OPEN SPACE BOND.

Town Clerk Muniz read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Mayor Truex was concerned with the costs of performing due diligence prior to having a contract.

Councilmember Starkey said there were a couple of parcels on which she wanted to proceed with appraisals and negotiations immediately, since these had been identified by the Open Space Advisory Committee as priorities. Mr. Kiar said in the past, a due diligence period had been included during which the Town could withdraw from contract negotiations.

Vice-Mayor Crowley was concerned with the three District 2 sites and wanted to proceed with environmental studies on them. Mayor Truex wanted to authorize staff to begin negotiations. Programs Administrator Phillip Holste explained that they did intend to perform an appraisal prior to negotiating.

Councilmember Paul agreed with Councilmember Starkey that there were sites on which they must move immediately. Mr. Holste asked Council to advise staff regarding their site priorities for each district.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve, and to move forward with appraisals and negotiations. In a roll call vote, the vote was as follows: Mayor Truex -yes; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 5-0)

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7. APPOINTMENTS

7.1. Mayor Truex

- 7.1.1. Parks and Recreation Advisory Board (one exclusive appointment - term expires April 2008) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

No appointment was made.

- 7.1.2. Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

- 7.1.3. Water and Environmental Advisory Board (one exclusive appointment; term expires April 2008) (insofar as possible, one member shall be a licensed engineer)

No appointment was made.

- 7.1.4. Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

7.2. Councilmember Caletka

- 7.2.1. Airport Advisory Board (one exclusive appointment; term expires December 2007)

No appointment was made.

- 7.2.2. United Ranches Preservation Board (one-exclusive appointment - member shall reside in the United Ranches area; term expires December 2008)

No appointment was made.

7.3. Councilmember Paul

- 7.3.1. Airport Advisory Board (two exclusive appointments; terms expire December 2007)

No appointments were made.

7.4. Councilmember Starkey

- 7.4.1. Airport Advisory Board (two exclusive appointments; terms expire December 2007)

Councilmember Starkey appointed Duncan Bossle.

- 7.5. Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointments were made.

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8. OLD BUSINESS

8.1. Annuity Report from Special Legal Counsel

Mayor Truex wanted to demand that the individuals who had profited from this annuity repay the Town. Councilmember Starkey noted that even though the State Attorney had determined that there was no criminal act committed, this had violated the Town's purchasing procedures. She wanted recommendations from Mr. Shimun, Budget and Finance Director Bill Underwood and special counsel Susan Delegal regarding recovering the loss.

Ms. Delegal said that a demand letter could be sent and they could also ask the opinion of the insurance carrier. Mr. Shimun felt the Town should pursue Allianz, since they had not met their obligation to the Town.

Councilmember Paul felt Town staff had not provided advice to Council on this issue when it had been needed. She also felt Ms. Delegal's report was flawed. Mayor Truex was "appalled" at Councilmember Paul's attitude and noted that this was done outside the normal channels. Mayor Truex felt Council had done one thing wrong: they had hired someone who was not qualified and he had taken advantage of the Town. He wanted to do everything possible to make the town whole.

Vice-Mayor Crowley felt staff had not been doing their job. He stated that, "All these issues that come back to Council and make us look bad is because of mistakes that have been made with staff," and he hoped Mr. Shimun would do something about this. Vice-Mayor Crowley was disappointed that Mr. Kiar had not advised Council on this situation and believed that this item had arisen because Mr. Kiar had not done his job. Mr. Kiar noted that the Town's Charter specified that the Town Attorney would provide written legal opinions on official matters when requested to do so by Council or the Town Administrator. He explained that in regard to this, he was asked to prepare an agenda item and a resolution, not to perform research. Mr. Kiar reminded Council that it would take him hundreds of hours to research every agenda item to the extent Ms. Delegal had researched this item and added that it was the Town Administrator's responsibility to assign staff or Mr. Kiar to research items.

Councilmember Caletka said it had been Mr. Kiar's responsibility to prevent Council from doing anything that was illegal. Councilmember Caletka said, "Every time there's a serious loss to the Town or any kind of scandal, the same names keep popping up." Mr. Kiar reiterated that this item was not something that "would jump out at any attorney ... that it was not a permissible investment." If the Town Administrator did not ask him to research an issue, Mr. Kiar assumed that the Administrator had already done so with staff.

Councilmember Caletka made a motion to liquidate the assets of the annuity, if this was legal.

Mr. Shimun recommended that Council liquidate the assets and recover the difference from Allianz. Mayor Truex felt this was premature before the Town consulted with their insurance company. Ms. Delegal felt the Town should first pursue their insurance, then they could request that Allianz return the funds and cancel the policy before they consider liquidating. This might allow the Town to recover the full \$275,000.

Councilmember Caletka withdrew his motion.

Councilmember Caletka made a motion, seconded by Councilmember Paul, to dismiss Mr. Kiar as Town Attorney, effective the end of the meeting.

Vice-Mayor Crowley said that as he had lost confidence, he would vote in favor of this motion.

Councilmember Paul felt this issue proved that the Town needed an in-house attorney. Councilmember Starkey remembered asking staff to create a report on the feasibility of hiring an in-house attorney, and said this had not been provided. She agreed it was time to seek outside counsel, or start preparing the bid to look for legal counsel. Councilmember Starkey also wanted to pursue the insurance issue as soon as possible, and if that wasn't an option, have Mr. Shimun's recommendation as to liquidate and then for Mrs. Delegal then to expeditiously move forward with seeking a recovery.

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Mr. Kiar understood when he took the position as Town Attorney that it was at the pleasure of the Council and he accepted whatever decision was made.

Mayor Truex asked that there be a transition period of two weeks, instead of demanding that Mr. Kiar leave immediately. Mayor Truex acknowledged that an in-house attorney could not be hired quickly and there would be an interim attorney involved.

Councilmember Caletka agreed to amend his motion to allow a one-week transition so a different attorney could be present at their next meeting. Councilmember Paul accepted the amendment.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 4-1)

Councilmember Caletka made a motion for Code Compliance Officer Danny Stallone to serve as interim attorney. Vice-Mayor Crowley felt Mr. Stallone lacked the required experience. Councilmember Caletka withdrew his motion.

Councilmember Paul made a motion, seconded by Councilmember Starkey, for Sam Goren to serve as Interim Town Attorney. Mr. Shimon remarked that Mr. Goren might have a time conflict, but noted that there were other attorneys at his firm that might be available. Councilmember Starkey requested a comparison of municipalities' Town Attorney services and fees, and the preparation of an RFP for legal services. Council discussed several other options for interim Town Attorney.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Crowley - yes; Councilmember Caletka - yes; Councilmember Paul - yes; Councilmember Starkey - yes. (Motion carried 4-1)

9. NEW BUSINESS

There was no new business to be discussed.

10. MAYOR/COUNCILMEMBER'S COMMENTS

VICE-MAYOR CROWLEY

CHALLENGE AIR PROGRAM. Vice-Mayor Crowley offered some of his time to Dan Pignato for an announcement. Mr. Pignato described the Challenge Air Program for special needs kids at the Fort Lauderdale Executive Airport offering free rides in airplanes on January 27 from 9:00 a.m. to 6:00 p.m.

AUDITOR RFP. Vice-Mayor Crowley asked Mr. Shimon if this was for Town Auditor, noting they had recently renewed the existing auditor's contract. Mr. Shimon said he had not understood that the existing company's contract had been renewed and agreed to review the meeting recording to confirm this.

COUNCILMEMBER STARKEY

MOBILE HOME TASK FORCE. Councilmember Starkey asked that a resolution regarding this issue be on the next agenda.

ZONING IN PROGRESS LEGAL OPINION. Councilmember Starkey also asked that this item be on the next agenda.

FITCH RATING. Councilmember Starkey said Fitch had given the Town of Davie an "A" rating. She quoted from the rating narrative, which acknowledged the Town's engagement of outside consultants and auditors to identify fraud prevention methods.

MOMENT OF SILENCE. Councilmember Starkey requested a moment a silence for the Muccia and McPherson families.

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COUNCILMEMBER PAUL

ZONING IN PROGRESS LEGAL OPINION. Councilmember Paul was concerned about the discrepancies in the reports that Council had received.

HORSE CROSSING ORDINANCE. Councilmember Paul asked Mr. Shimun about the ordinance that the Open Space Advisory Committee had requested regarding horse crossings. Mr. Shimun indicated his intent to research this issue for the next meeting

K-9 COMPOUND AT ROBBIN'S LODGE. Councilmember Paul was opposed to this idea. Police Chief John George said they were just discussing locations for K-9 training and any proposals would come before Council.

BOB AMCHIR. Councilmember Paul wanted to name a street for Bob Amchir and suggested 75th Terrace.

FORENSIC AUDIT REPORT. Councilmember Paul requested another report from the forensic auditor. Assistant Town Administrator Ken Cohen advised that Council would be receiving another report.

NEW YEAR'S FIREWORKS TRAGEDY. Councilmember Paul reported that one of her horses had died of a heart attack on New Year's Eve as the result of illegal firework activity. She said these were the very large, certainly illegal, fireworks causing the explosive noises.

FARM BUREAU DAYS. Councilmember Paul announced that March 21st was Farm Bureau Day in Tallahassee and this was the day she had intended to say farewell to the Town. Since she would miss Broward Days, she felt it important to make it to Farm Bureau Day and asked to be permitted to say farewell at the Council's next meeting.

FUNDS HELD BY THE STATE. Councilmember Paul wanted to investigate the information she had discovered of funds the State was holding belonging to Davie.

COUNCILMEMBER CALETKA

COMMUNITY CHEST. Councilmember Caletka asked Mr. Shimun to look into the creation of a Community Chest that could be used to cover the cost of some items and keep them out of the budget.

SEMINOLE CASINO NOISE COMPLAINTS. Councilmember Caletka advised that he had received several complaints and wanted to consider legal action.

QUARTERLY BUDGET UPDATE. Councilmember Caletka asked for a quarterly budget update.

THANKS TO MR. KIAR. Councilmember Caletka thanked Mr. Kiar for his service and wished him luck.

MAYOR TRUEX

6070 GRIFFIN ROAD VARIANCE. Mayor Truex asked Council to reconsider their vote to deny the Davis variance at the previous meeting and to table the item for six months to allow the applicant to develop a site plan. Councilmember Starkey noted that she had voted against it at least in part because it did not have a site plan and agreed to reconsider it.

Councilmember Starkey made a motion, seconded by Mayor Truex, to reconsider. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Starkey made a motion, seconded by Mayor Truex, to table the Davis variance request for six months to allow the applicant to create a site plan. In a voice vote, all voted in favor. (Motion carried 5-0)

PARK CITY SHUFFLEBOARD TOURNAMENT. Mayor Truex announced that the Park City Shuffleboard tournament would be held February 15th and 16th.

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FIREWORK ENFORCEMENT. Mayor Truex felt enforcement of fireworks was lax. Chief George said the Police Department only had so many resources for the large number of calls. He remarked that the law did allow people to buy fireworks that were illegal to use.

ILLEGAL SPORT VEHICLES. Mayor Truex asked Chief George about illegal sport vehicles. Chief George assured Mayor Truex that the Police Department did impound these vehicles.

BULK TRASH. Mayor Truex asked if Code Compliance could enforce the bulk trash rules. He had noticed many households putting bulk trash out at will instead of waiting for the appropriate date.

11. TOWN ADMINISTRATOR'S COMMENTS

No comments were provided.

12. TOWN ATTORNEY'S COMMENTS

MORATORIUM. Mr. Kiar advised that he had reviewed Chapter 723 regarding the moratorium and had researched case law. He discovered that the courts had upheld moratoriums, but nothing specifically related to mobile homes. Mr. Kiar had discovered an ordinance in the City of Amorada similar to the ordinance Council sought and he had drafted a proposed ordinance. Mr. Kiar said he believed the ordinance would withstand legal challenge. He explained that the Statute forbade interference with day-to-day operations of mobile home parks, but allowed the imposition of a moratorium on building permits.

13. ADJOURNMENT

There being no further business to discuss and no objections, the meeting was adjourned at 11:28 p.m.

Approved _____

Mayor/Councilmember

Town Clerk